

## **REMARKS**

With this Response, claims 1, 6, 21-22, and 32 are amended. Applicants further respectfully request that claim 24 be canceled without prejudice. Therefore, claims 1, 4-6, 8, 11-19, 21, 22, 25, 32, 34 and 35 are pending.

## **CLAIM OBJECTIONS**

Claims 1, 4-6, 11-19, 21, 22, 24, 25, 32, 34 and 35 were objected to for perceived informalities. More specifically, the objections are addressed as follows.

Claims 1, 6 and 32 were objected to for reciting the "the second subsystem," which the Office Action suggested be changed to "the second software subsystem." Whether or not such a change renders the claim clearer, Applicants have amended the claims accordingly for the purpose of expediting prosecution of this matter. Therefore, this objection to these claims has been overcome.

Claims 21-22 were objected to for typographical errors, which are corrected herein.

Claim 22 was objected to because of use in the claim of the expressions "first software system" and "frozen object," while also reciting "first software subsystem" and "frozen software object." Appropriate correction is made herein to make all uses refer to "first software subsystem" and "frozen software object." Therefore, this objection has been overcome.

Claim 24 was objected to as not including subject matter that provides a further limitation of independent claim 22, from which claim 24 depends, thus meaning claim 24 has improper dependent form. Applicants have canceled claim 24 herein.

Claims 4, 5, 11-19, 21, 24 and 25 were objected to as reciting the "statutory category" of a method claim, where the Office Action suggests they should recite the "statutory category" of a "computer-implemented method" for the purpose of providing explicit antecedent basis. Claim 24 is canceled herein, rendering objection to this claim moot. As a first matter, if there was indeed something wrong with the preamble of the dependent claims, Applicants do not understand why it was not addressed in the previous Office Actions mailed prior to Applicants' filing for an RCE. Furthermore, Applicants are unaware of legal authority that defines how "a computer-implemented method" is a different statutory category from "a method," and request such legal authority be provided, or the objection be withdrawn. Furthermore, per MPEP 2173.05(e), "explicit antecedent basis" is not required where, as here, the claims are not unclear.

Applicants have elected to use the preamble "The method..." in the dependent claims for simplicity and ease of readability. Applicants submit that no one of skill in the art would be confused into thinking that "the method" referred to in the dependent claims could be anything other than the "computer-implemented method" of the independent claims. Therefore, the objection is without merit, and Applicants have chosen to leave the dependent claims unchanged.

## **REJECTIONS UNDER 35 U.S.C. § 102**

### **Claims 1, 4, 32 and 34**

These claims were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0072928 of Sundararajan et al. (hereinafter "Sundararajan"). Applicants submit that these claims are not anticipated by the cited reference for at least the following reasons.

Of these claims, 1 and 32 are independent claims, and both recite features directed to a change introduced into a software object of a first software subsystem that is instantiated on a second software subsystem, and determining whether the change is compatible software objects of the second software subsystem.

The significance of instantiating a software object on a second software subsystem seems to have been missed in the rejection of the Office Action. One of skill in the art would understand that code can be loaded from one software subsystem onto a second software subsystem, loaded with configuration/settings local to the second software subsystem, and executed on the second software subsystem.

The Office Action cites Sundararajan, which discusses a system having "components" that are a **combination** of hardware and software. See paragraph [0041]. There are multiple parallel subsystems, each have components, where components between the subsystems may have a particular relationship. See, inter alia, paragraphs [0038], [0041], [0042]. The relationships between the "components" are monitored and apparently managed. See, inter alia, paragraphs [0042], [0044]. Nowhere in the reference does Sundararajan disclose or suggest the instantiation of a software object from one software subsystem to another software subsystem. In fact, rather than suggesting changes to software objects that are instantiated in other subsystems, the whole of the Sundararajan reference appears to suggest changes to "components," meaning a change in a combination of a software elements with a hardware element. Thus, the cited

reference appears to disclose nothing more than changing what software is associated with particular hardware on a subsystem, which may affect another subsystem that relied on a relationship of one of its components to the changed component.

It is ridiculous to suggest that hardware can be instantiated from one subsystem to another subsystem, and so Applicants must presume the Office did not intend such an interpretation of the reference, although it is not completely clear such was not suggested in the Office Action at page 5. Furthermore, as mentioned above, the mention of software in the reference appears limited to its combination or association with hardware elements. Thus, it is unclear from the Office Action what is intended to show a software object instantiated from one subsystem in another subsystem.

Applicants submit that the issues corresponding to relationship compatibility between hardware/software combinations and the mechanisms for dealing with them do not appear from the cited reference to have anything to do with the claimed subject matter, referring to a change introduced into a software object of a first software subsystem that is instantiated on a second software subsystem, and determining whether the change is compatible software objects of the second software subsystem. Therefore, Applicants submit that Sundararajan is inapplicable to the claimed invention, and fails to disclose or suggest at least one feature of the invention as recited in Applicants' independent claims.

#### **REJECTIONS UNDER 35 U.S.C. § 103**

##### **Claims 5 and 35**

Claims 5 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundararajan in view of U.S. Patent Application No. 6,658,659 of Hiller (hereinafter "Hiller"). These claims depend from independent claims 1 and 32, respectively, discussed above with reference to Sundararajan. The same defects of the primary reference apply with respect to these dependent claims. Hiller fails to cure the deficiencies of Sundararajan. Hiller refers to applying version numbers to a software program, and does not appear to disclose or suggest anything related to a change introduced into a software object of a first software subsystem that is instantiated on a second software subsystem, and determining whether the change is compatible software objects of the second software subsystem. Therefore, whether alone or in combination, the cited references fail to disclose or suggest at least one feature of the invention as recited in

Applicants' independent claims, and so fail to render obvious the invention as recited in these dependent claims.

**Claims 6, 13-15, 17-19, 22, 24 and 25**

Claims 6, 13-15, 17-19, 22, 24 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundararajan in view of U.S. Patent Application No. 6,725,452 of Te'eni (hereinafter "Te'eni"). Applicants submit that these claims are not rendered obvious by the cited references for at least the following reasons.

Of these claims, 6 and 22 are independent claims, and both recite features directed to change introduced into a software object of a first software subsystem that is instantiated on a second software subsystem, and determining whether the change is compatible software objects of the second software subsystem.

The merits of Sundararajan are addressed above. The reference simply fails to disclose or suggest anything related to the recited claim features above. Te'eni fails to cure the deficiencies of Sundararajan. Te'eni discloses a system that allows a user to select and lock certain software subcomponents during the installation of a software product. There is no teaching to suggest to one of skill in the art the change detection and compatibility determination of a software object that is instantiated from one software subsystem into another software subsystem. Therefore, whether alone or in combination, the cited references fail to disclose or suggest at least one feature of the claimed invention, and so fail to render obvious the invention as recited in the independent claims, or their respective dependent claims.

**Claims 8, 11 and 12**

Claims 8, 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundararajan and Te'eni, and further in view of U.S. Patent Application Publication No. 2004/0230952 of Massaro (hereinafter "Massaro"). These claims depend from independent claim 6, discussed above with respect to Sundararajan and Te'eni. Massaro discusses a system to mark sections of a storage system as being of different versions. The reference is not cited as curing the deficiencies of Sundararajan and Te'eni, nor indeed does it cure the deficiencies of these references. Whether alone or in combination, the cited references fail to disclose or suggest at

least one feature of the invention as recited in independent claim 6, and so fail to render obvious claim 6, or these claims, which depend from claim 6.

#### **CONCLUSION**

For at least the foregoing reasons, Applicants submit that the rejections are overcome, and respectfully requests that the rejections be withdrawn. Therefore, all pending claims are in condition for allowance, and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

Date: September 8, 2008

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